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MATTHEW OLDEN

FILED  
2010 MAR -9 PM 3: 58

CLERK OF DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY SS DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA,  
SAN DIEGO DIVISION

MATTHEW OLDEN,

Plaintiff,

v.

PATENAUDE & FELIX APC,

Defendant.

Case No.:

COMPLAINT AND DEMAND FOR  
JURY TRIAL

10CV 0505 BEN

RBB

PLAINTIFF'S COMPLAINT

MATTHEW OLDEN (Plaintiff), through his attorneys, KROHN & MOSS, LTD.,  
alleges the following against PATENAUDE & FELIX APC (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
3. Defendant is located in and conducts business in the state of California, and therefore, personal jurisdiction is established.
4. Venue is proper pursuant to 28 U.S.C. 1391(b)(1).

- 1 -

PLAINTIFF'S COMPLAINT

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1 5. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

2 **PARTIES**

3 6. Plaintiff is a natural person residing in Las Vegas, Clark County, Nevada.

4 7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to  
5 Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

6 8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought  
7 to collect a consumer debt from Plaintiff.

8 9. Defendant is a national company with a business office in San Diego, Clark County,  
9 Nevada.

10 10. Defendant acted through its agents, employees, officers, members, directors, heirs,  
11 successors, assigns, principals, trustees, sureties, subrogees, representatives, and  
12 insurers.

13 **FACTUAL ALLEGATIONS**

14 11. Defendant constantly and continuously places collection calls to Plaintiff seeking and  
15 demanding payment for an alleged debt.

16 12. Defendant calls Plaintiff at 702-966-0844.

17 13. Defendant calls Plaintiff from 800-832-7675.

18 14. Defendant calls Plaintiff and fails to disclose that the call is from a debt collector (see  
19 transcribed voicemail messages attached as group Exhibit A).

20 **COUNT I**

21 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

22 15. Defendant violated the FDCPA based on the following:

- 23 a. Defendant violated §1692d of the FDCPA by engaging in conduct that the  
24 natural consequences of which was to harass, oppress, and abuse Plaintiff in  
25 connection with the collection of an alleged debt.

- 1 b. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiff's  
2 telephone to ring repeatedly and continuously with the intent to annoy, abuse,  
3 and harass Plaintiff.  
4 c. Defendant violated §1692e of the FDCPA by using false, deceptive, and  
5 misleading representations in connection with the collection of any debt.  
6 d. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an  
7 attempt to collect a debt.  
8 e. Defendant violated §1692e(11) of the FDCPA by failing to disclose in  
9 subsequent communications that the call is from a debt collector.

10 WHEREFORE, Plaintiff, MATTHEW OLDEN, respectfully requests judgment be  
11 entered against Defendant, PATENAUE & FELIX APC, for the following:

- 12 16. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection  
13 Practices Act;  
14 17. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15  
15 U.S.C. 1692k;  
16 18. Actual damages;  
17 19. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,  
18 15 U.S.C. 1692k; and  
19 20. Any other relief that this Honorable Court deems appropriate.

20 **DEMAND FOR JURY TRIAL**

21 PLEASE TAKE NOTICE that Plaintiff, MATTHEW OLDEN, demands a jury trial in  
22 this cause of action.  
23

24 RESPECTFULLY SUBMITTED,  
25

1 DATED: March 2, 2010

KROHN & MOSS, LTD.

2  
3 By:

James D. Pacitti  
Attorney for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF NEVADA

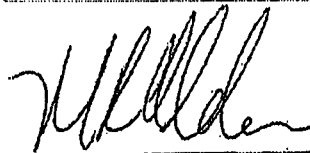
Plaintiff, MATTHEW OLDEN, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, MATTHEW OLDEN, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE:

03/02/10



MATTHEW OLDEN

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**EXHIBIT A**

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**MATTHEW OLDEN v. PATENAUDE & FELIX A.P.C**

Message is for Matthew Olden. Matthew this is Juan Cantwell calling you from the Law Offices of Patenaude & Felix. Matthew it is really, really important for you to contact me today directly on my extension. My phone number is 1-800-832-7675, extension 7675. Your deadline today is noon. Please call me. That is the deadline I am giving you, noon, have a great day.

This message is for Matthew Olden. My name is \_\_\_\_\_. I am calling you from the Law Offices of Patenaude & Felix. It is very important you return this call. The number to reach me is 1-800-832-7675, extension 7767. It is very important you return this call. I have very important information. I will be in the office Monday to Friday from 4 p.m. to 9 p.m., Saturday 8 a.m. to 4 p.m. It is important you call me within those hours. I will be expecting your call.

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

MATTHEW OLDEN

(b) County of Residence of First Listed Plaintiff Clark County, NV  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Krohn & Moss, Ltd. Ryan Lee (323) 988-2400  
10474 Santa Monica Blvd., Suite 401 Los Angeles, CA 90025

## DEFENDANTS

PATENAUDE &amp; FELIX APC

County of Residence of First Listed Defendant San Diego

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

10CV 0505 BEN

RBB

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC 1692 et seq.

Brief description of cause:

Unlawful and abusive debt collection practices

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/05/2010

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

10971

AMOUNT

\$350 -

APPLYING IFP

JUDGE

MAG. JUDGE

PB 03-09-10

CR



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

DUPLICATE

Court Name: USDC California Southern  
Division: 3  
Receipt Number: CAS010971  
Cashier ID: mbain  
Transaction Date: 03/09/2010  
Payer Name: KROHN AND MOSS

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CIVIL FILING FEE  
For: OLDEN V PATENAUDE  
Case/Party: D-CAS-3-10-CV-000505-001  
Amount: \$350.00

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CHECK  
Check/Money Order Num: 21347  
Amt Tendered: \$350.00

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Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

There will be a fee of \$45.00  
charged for any returned check.